

# **Address**

**The Hon. Anthony Hylton**

**Minister of Industry, Investment and Commerce**

**Event : Press briefing re SIPP, Collateral Registry and other legislative matters**

**Date : Thursday, December 19, 2013**

**Time : 9.00 a.m.**

**Venue : MIIC second floor conference room**

## Salutations

- Honourable Minister of State, Sharon Ffolkes Abrahams
- CEO of the Companies Office of Jamaica, Mrs. Judith Ramlogan
- Mr. Ainsley Powell, Commissioner General, Tax Administrator
- Representatives of the media
- Ladies and gentlemen ... Good Morning.

This is a very special morning for us at the Ministry ... a morning when we address the introduction of key pieces of legislation, which are critical to the goal of improving the business environment in Jamaica. These legislative reforms are part of the Government's Business Reform Agenda, designed to enhance the investment environment and ultimately spur entrepreneurship and economic growth.

Specific reforms were made to adhere to a composite of time bound structural benchmarks agreed with the International Monetary Fund, in an effort to restructure the economy for economic growth, and I am happy to announce that we are in a position to honour our commitment to meeting the prescribed deadlines.

These key pieces of legislation include the Security Interests in Personal Property Act, Companies (Amendment) Act to prescribe a single form for business registration; to make consequential amendments to other enactments, and for related matters the Charities Act and the Insolvency and Bankruptcy Act, all of which support the implementation of Government's growth strategy.

Government is patently aware of the challenges to the business environment, but we remain strongly committed to addressing them as part of the overall Business Reform Agenda. Impediments to growth include high public debt (142 percent of GDP as of the end of 2011/2012); low factor productivity and competitiveness; high energy cost and bureaucratic business processes are major challenges.

Ladies and gentlemen, I would like to acknowledge our funding partners, the IDB and Compete Caribbean, in the implementation of these reforms.

The Technical Assistance which the Government accessed totaled USD653,000 and supported the drafting of the legislations for the SIPP, the implementation of the collateral registry, public awareness, support for insolvency and the Companies (Amendment) Act to prescribe a single form for business registration ; to make consequential amendment to other enactment ; and for related matters.. Most of these reforms were initiated under the Jamaica Competitiveness Enchantment Program, JCEP. The overall intention is to improve the ease of doing business in Jamaica and therefore improve our ranking internationally.

The Government's growth strategy is underpinned by a programme of reforms, designed to improve dynamic efficiency, with a commitment to improvements in several areas including,

- the enforcing of contracts
- registering a business
- access to credit
- reducing the cost of doing business
- simplifying the process of business start up
- make adequate provision for corporate and individual insolvency

### **Security Interests in Personal Property Act**

A critical element in the process of improving the business environment is the establishment of a secured transactions framework, the goal of which is to facilitate improved access to credit through the inclusion of movable property as allowable forms of collateral.

The new Security Interests in Personal Property Act is a landmark legislation which will allow for the use of assets such as motor vehicles, agricultural products, livestock, stocks and securities, machinery and equipment, crops and other agricultural yields, (e.g. plants, trees and land), accounts receivable and futures, e.g. future crops, future acquisition of security interests and unborn livestock. Owners of creative works,

innovators and inventors, will now be able to leverage their intellectual property, such as copyright, patents and trademarks to be used as collateral in the process of securing loans.

Access to financing for MSMEs has been limited, as many are viewed by creditors as 'high risk', especially in an environment where non-traditional collateral was not recognized.

The SIPP Act changes that and will undoubtedly lead to the creation of a more robust and dynamic MSME sector.

Ladies and gentlemen, this is a significant achievement on the part of the Government, and one which will have a major positive impact on the long-term sustainability of the Micro Small and Medium-sized Enterprises sector. It also serves to underscore Government's commitment to supporting this sector, which is critical to economic growth, jobs and wealth-creation.

### **SIPP Registry (Collateral Registry)**

Let me now turn my attention to the Security Interests in Personal Property Registry, the 'SIPP Registry', sometimes referred to as the National Collateral Registry. This is a collateral registry whose main aim is to facilitate financing for MSMEs. The registry forms part of the secured transactions framework, designed to modernize and improve commerce, by expanding access to domestic credit, while at the same time minimizing the risks of loan default. This is another structural benchmark agreed to by the Government of Jamaica with the IMF, and we are ahead of the deadline.

The SIPP registry is to be administered by the Companies' Office of Jamaica, the repository of information on non-real estate assets being tendered as collateral for securing loans. The existence of the registry is expected to result in increased access to loans for the MSME sector, as it offers a mechanism for risk mitigation and a measure of risk management for financial institutions.

The Financial institutions will register notices of loans granted and the associated assets used as collateral. The availability of this information in a central database, will enable the institutions to verify any previous use of the potential collateral, and establish priority with regard to other claimants on the same asset.

## **INSOLVENCY LEGISLATION**

Another major plank of support for the MSME sector is the recently tabled Insolvency bill. The existing Bankruptcy law of 1880 is clearly outdated and deficient. There is limited opportunity for rehabilitation and this acts as an impediment to business growth and entrepreneurship, generally. The creation of a dynamic business environment hinges on a legislative framework that encourages entrepreneurship or risk-taking as the basis for new business formation is critical.

Insolvency or bankruptcy laws that foster entrepreneurship, absorb much of the risk that creating a new business necessarily entails, thereby reducing the cost of failure. According to the World Bank's *Doing Business Report 2012*, resolving insolvencies in Jamaica takes 1.1 years on average, and costs 18% of the debtor's estate. The average recovery rate is 65.3 cents on the dollar.

The Private Sector Organization of Jamaica's Insolvency Committee, established to review the laws pertaining to personal and corporate insolvencies in Jamaica, recognized that our present statutes are based on a 19<sup>th</sup> century approach that almost treated insolvent persons as criminals, and that primarily sought to protect the rights of creditors. One of the most significant changes going forward is new legislation providing for the rescue and rehabilitation of an insolvent person.

**A modern bankruptcy and insolvency law is not only essential in the creation of a favourable business environment, but also necessary for the stability of our financial system.**

The revised bankruptcy Act when it is implemented will make new provisions for the regulation of bankruptcy and insolvency, to make provisions for corporate and individual

insolvency, provide for the rehabilitation of the insolvent debtor, and create the office of supervisor of insolvency and connected matters.

### **The CHARITIES ACT**

We cannot discount the contribution of the private voluntary sector to national and economic development. However, there is currently no single legislation which provides a regulatory framework for the private voluntary sector.

The agencies operating within the sector, however, may access certain entitlements or be guided by the provisions under a number of different statutes including the Income tax Act, the General Consumption Act, the Customs Act, the Property Tax Act, the Trustees vesting Act and the Companies Act.

The enactment of the Charities Act, will facilitate Government's policy to introduce a single piece of legislation that provides for the regulation of charitable organisations, either currently operating or intending to operate in Jamaica. This Act will facilitate the registration, regulation administration and governance of the private voluntary sector.

### **Companies (Amendment) Act to prescribe a single form for business registration ;to make consequential amendment to other enactments; and for related matters**

#### **Business Registration Form**

Ladies and Gentlemen, the legislative reform which is likely to have the greatest and most far reaching impact at this time is the use of the new Business Registration Form (called the 'super form'). This will address a wide cross section of issues faced by individuals in the process of business startup, and ease the tremendous heartache of many members of the MSME sector.

The multipurpose registration form is an instrument of the single registration window, a kind of 'one stop shop' housed at the Companies Office of Jamaica. With the introduction of the super form you save time and cost, as the incorporation of a company or the registration of a business name, will require only one trip, that is, to the

Companies' Office of Jamaica. It therefore eliminates the need to visit multiple agencies to process a TRN, NIS number, GCT, and NHT requirements or to procure clearance letters.

The output documents to be issued from the Companies Office where the business registration form is used for company registration is a Certificate of Registration. This Certificate will indicate the TRN, GCT, NHT, HEART, NIS information and a tax compliance certificate (TCC) will also be issued. In the case of Business Names the applicant will receive a Business Name Certificate with NIS, TRN, NHT, HEART information. This will now allow persons to start business in a more expeditious manner.

The 'super form' represents a quantum leap in improving the business environment and increasing competitiveness. This is crucial, as the success of new ventures and the sustainability of existing businesses to operate sustainably, in large measure depend on the competitiveness of the business environment. The implementation of the super form and other aspects of the business reform agenda, underscores Government's commitment to transforming service delivery through joined up government.

## **CONCLUSION**

The implementation of these pieces of legislation has been preceded by months of inter-agency deliberations, research, crafting and fine tuning, with a view to ensuring that these instruments best serve the interests of the people of Jamaica, and facilitate the improvement of the Jamaican business environment.

The introduction of these new reforms underscores our commitment, as a Government to significantly strengthen the business environment, raise our level of competitiveness and put Jamaica on a glide path towards sustained economic growth and prosperity.

I thank you.